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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-second session

Summary record (partial)* of the 272nd meeting
Held at the Palais des Nations, Geneva, on Monday, 13 April 2015, at 10 a.m.

Chairperson: Mr. Carrión Mena

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 10.05 a.m.

Opening of the session

1. **The Chairperson** declared open the twenty-second session of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Introductory statement by the Representative of the United Nations High Commissioner for Human Rights

2. **Mr. Salama** (Director of the Human Rights Treaties Division, Office of the United Nations High Commissioner for Human Rights (OHCHR)), after welcoming the Committee members on behalf of the United Nations High Commissioner for Human Rights, said that they were meeting at a time when the plight of migrant workers was attracting attention. Figures released by the International Organization for Migration showed that almost four times as many migrants and asylum seekers had arrived in Italy in 2014 as in 2013, while migrant flows were also increasing across the Americas, the Middle East, Africa and the South-East Asian nations. However, despite the migration crisis, durable solutions were still not being found.

3. Since the start of his mandate, the High Commissioner for Human Rights had given priority to the issue of migrants' rights. Moreover, in his statement on International Human Rights Day in 2014 he had warned against the dangers of negative depictions of migrants and asylum seekers. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the twenty-fifth anniversary of which was being celebrated that year, provided a comprehensive human rights framework covering all stages of the migration process. All stakeholders must therefore redouble their efforts to ensure that the rights of persons entitled to protection under the Convention were observed.

4. The General Assembly of the United Nations had recently adopted a number of resolutions relating to the protection of migrants. Resolution 69/167 acknowledged the Committee's contribution to protecting migrants and again called upon States to consider signing, ratifying or acceding to the Convention. Resolution 69/187 encouraged States to consider the best interests of migrant children and came as the Committee was itself considering a general comment on children in the context of migration. Resolution 69/229 recognized the multidimensional nature of international migration and underlined its importance in the development of countries of origin, transit and destination.

5. As the Secretary-General of the United Nations had stated in his Synthesis report on the post-2015 sustainable development agenda and his message for International Migrants Day, it was vital that no one, including migrants, be left behind in the new framework for development after 2015. At a time when United Nations Member States were embarking on negotiations towards adopting a post-2015 development agenda, it was important to ensure that goals, targets, indicators and accountability frameworks were closely aligned with human rights norms. The Special Rapporteur on the human rights of migrants had also advocated for the inclusion of the human rights of migrants in the post-2015 development agenda and had urged the European Union and United Nations Member States to establish a coherent and comprehensive migration policy – one which celebrated mobility and diversity while recognizing the real needs of the labour market and of migrants themselves.

6. In addressing the Human Rights Council, the High Commissioner for Human Rights had called for humane responses to the migration crisis, deploring the discrimination and ill-treatment migrants had to suffer and recalling that human rights were not reserved only for citizens or persons holding a visa but were the inalienable right of every individual regardless of location or migration status. In a joint statement for International Migrants

Day, the High Commissioner for Human Rights and the Director-General of the International Labour Organization had also underlined the importance of ensuring that migrants had access to education, health care and housing, because equality and non-discrimination were drivers of sustainable development.

7. The Committee had been provided with an additional three days of meeting time as part of the treaty body strengthening process, but it had also been affected by cuts in OHCHR extrabudgetary resources. OHCHR intended to focus its support in 2015 on reaching the targets set forth in General Assembly resolution 68/628. Strengthening the treaty bodies system required a reduction of backlogs and an increased harmonization of working methods, and the Committee had already taken a number of steps in that regard, such as simplified reporting procedures and largely paperless sessions. It was to be hoped that the Committee would continue to lead by example, showing other committees the road to greater efficiency; it should also look at ways to strengthen the role of country rapporteurs and enhance dialogue with States parties.

8. The General Assembly had asked the Secretary-General to submit a report every two years on the implementation of resolution 68/628. The reports would serve to ensure that committees met their budgetary targets in terms of reports reviewed and backlogs reduced, and they would be used as part of a review of the entire treaty body system scheduled for 2020. The resolution also requested chairpersons of committees to keep States updated on the implementation of the Addis Ababa Guidelines on the independence and impartiality of members of the human rights treaty bodies and the Committee should consider establishing an internal mechanism to track its own progress in that regard.

9. OHCHR would continue to champion the rights of migrants and to support the Committee and the application of the norms and standards set down in the Convention.

Adoption of the agenda (CMW/C/22/1)

10. *The agenda was adopted.*

Consideration of reports submitted by States parties under article 73 of the Convention

Dialogue with national human rights institutions and non-governmental organizations

11. **Mr. Tashbulatov** (Central Asia on the Move) said there were gaps in Kyrgyz legislation relating to the rights of migrant workers. The International Migration Act defined migrant workers as persons in a regular situation employed in a State where they were not citizens; therefore, migrants in an irregular situation were deprived of legal remedy. Moreover, according to article 18 of that Act, the rights and obligations provided for under Kyrgyz legislation were dependent on a formal employment contract in the State of employment.

12. There was not enough information about consular services and many Kyrgyz migrant workers were unprepared for their departure, which put them in a vulnerable position. Most were not aware of their legal rights or the possibility of approaching consular offices for assistance.

13. The spread of disease among migrant workers due to limited access to health care in host countries was an ongoing problem. Few migrant workers underwent a medical examination or obtained health insurance before arriving in the State of employment. Moreover, employers of migrant workers in an irregular situation in the Russian Federation did not pay for mandatory health insurance, as required by Russian legislation.

14. Contrary to the requirements of the Convention on the Elimination of All Forms of Discrimination against Women, there were no women staff members in the consular department of the Kyrgyz Embassy in Moscow. That could create a psychological barrier for women who were victims of violence or needed to communicate personal information from approaching consular offices for assistance.

15. Kyrgyz consular regulations did not provide for measures to help citizens exercise their voting rights. For example, Kyrgyz citizens residing in the Russian Federation were not registered with the consulate and thus not on the electoral roll.

16. Measures by the Ministry of Labour, Migration and Youth to protect the rights of Kyrgyz citizens abroad and to prepare migrants for departure were either not fully implemented or ineffective. It had been suggested that the Ministry should be disbanded and its functions delegated to other government agencies; however, that would fragment and destabilize migration policy.

17. In view of the foregoing, he recommended that the Government should amend the legal definition of "migrant worker", establish a separate authority to deal with labour migration issues and devise State programmes to prepare migrant workers for departure. It should encourage host countries to ratify the Convention, incorporate its provisions in national legislation and increase NGO involvement in consultative bodies in Kyrgyzstan. The Government should also improve access to consular services and legal assistance for Kyrgyz citizens living in the Russian Federation and increase the representation of women, including lawyers, in diplomatic missions and consular offices. It should strengthen measures to ensure contact with and legal assistance for persons in detention, in accordance with the Vienna Convention on Consular Relations and the related convention between Kyrgyzstan and the Russian Federation.

18. Kyrgyz citizens should be provided with comprehensive information, in both Kyrgyz and Russian, about consular services and legal assistance available and about their rights to enter, stay and work in the Russian Federation. There should be greater cooperation with local authorities on protecting the legal rights and interests of Kyrgyz citizens and on follow-up in the event of violations. Attention should be focused on effectively guaranteeing Kyrgyz citizens the rights stipulated under host-country legislation and international agreements, and criminal and judicial proceedings involving Kyrgyz citizens should be monitored. Lastly, cooperation with the media in host countries should be improved to reduce the stigmatization of migrant workers.

19. **Mr. Taghizadeh** recalled that Kyrgyzstan would be joining the Eurasian Economic Union in May 2015, giving all its citizens the right to move freely between the countries in that Union. While the Russian Federation currently received the vast majority of migrants from Kyrgyzstan, it would be useful to have information on other countries in the Union that received flows of Kyrgyz migrant workers.

20. **Mr. Brillantes** said that, according to the initial report of Kyrgyzstan, the Government had conducted extensive consultations with NGOs prior to reporting. He asked whether Mr. Tashbulatov's organization had been consulted and, if so, whether the issues mentioned in the current meeting had been brought to the State party's attention during those consultations. Which recommendations had been made to the Government and had any of them been addressed in the State party report?

21. **Mr. Ceriani Cernadas** asked whether the State party had disaggregated statistics relating to the rights under the Convention, specifically in relation to Kyrgyz migrants who were being detained in or had been deported from the Russian Federation and to minors. Recalling that the Russian Federation was not a party to the Convention, he asked whether the rights covered by the instrument were safeguarded by any bilateral agreements. If so, what specific programmes were provided by the Kyrgyz consular authorities to persons in

detention or persons undergoing deportation proceedings or persons whose labour rights had been violated? Referring to the lack of legal remedy for persons in an irregular situation, he asked whether that applied only to labour rights or to other rights relating to the deprivation of liberty too.

22. **Mr. Tashbulatov** (Central Asia on the Move) said the fact that Kyrgyzstan was joining the Eurasian Economic Union would not resolve all the issues he had mentioned. The Russian Federation had special detention facilities for migrant workers who were subject to administrative proceedings, however, their detention conditions were much worse than those of people undergoing criminal proceedings. It was highly unlikely that the situation would improve in the near future. His organization had advised the Kyrgyz Government to establish relations with countries other than the Russian Federation in order to open up new labour markets to Kyrgyz migrant workers. Numerous consultations had been held with the Government during which the recommendations had been discussed and his organization continued to provide updates on its monitoring and research activities. However, many issues had not yet been resolved, including that of the need for female consular staff.

23. The requested statistics were not currently available but could be provided at a later date. Thanks to various bilateral agreements, blacklisted individuals had been permitted to return to the Russian Federation to work. For more than two years, his organization had been monitoring Kyrgyz citizens' access to consular services in the Russian Federation and Kazakhstan and the high quality of work carried out by Kyrgyz consular staff might well be the result of such monitoring. However, while such staff did their best to ensure the rights of detained or deported persons, their efforts were not always successful.

The discussion covered in the summary record ended at 11 a.m.